

agent. The report must include, at a minimum, the items in § 396.11(b)(2) of this chapter.

[73 FR 76822, Dec. 17, 2008, as amended at 77 FR 34852, June 12, 2012; 77 FR 59828, Oct. 1, 2012]

§ 390.44 What are the procedures to correct the safety record of a motor carrier or an intermodal equipment provider?

(a) *An intermodal equipment provider or its agent* may electronically file questions or concerns at <http://dataqs.fmcsa.dot.gov> about Federal and State data that reference the provider. This includes safety violations alleging that the components, parts, or accessories of intermodal chassis or trailers listed in § 392.7(b) of this chapter were not in good working order when inspected at roadside. An intermodal equipment provider should not be held responsible for such violations because a motor carrier indicated pursuant to § 392.7(b) that these components, parts, or accessories had no safety defects at the time of the pre-trip inspection.

(b) *A motor carrier or its agent* may electronically file questions or concerns at <http://dataqs.fmcsa.dot.gov> about Federal and State data that reference the motor carrier. This includes safety violations alleging that any components, parts, or accessories of intermodal chassis or trailers, except those listed in § 392.7(b) of this chapter, were not in good working order when inspected at roadside. Such violations will not be used by FMCSA in making a safety fitness determination of a motor carrier (unless there is evidence that the driver or motor carrier caused or substantially contributed to the violations) because the driver could not readily detect these violations during a pre-trip inspection performed in accordance with § 392.7(b).

(c) *An intermodal equipment provider, or its agent*, may request FMCSA to investigate a motor carrier believed to be in noncompliance with responsibilities under 49 U.S.C. 31151 or the implementing regulations in this subchapter regarding interchange of intermodal equipment by contacting the appropriate FMCSA Field Office.

(d) *A motor carrier or its agent* may request FMCSA to investigate an inter-

modal equipment provider believed to be in noncompliance with responsibilities under 49 U.S.C. 31151 or the implementing regulations in this subchapter regarding interchange of intermodal equipment by contacting the appropriate FMCSA Field Office.

§ 390.46 Are State and local laws and regulations on the inspection, repair, and maintenance of intermodal equipment preempted by the Federal Motor Carrier Safety Regulations?

(a) *General*. As provided by 49 U.S.C. 31151(d), a law, regulation, order, or other requirement of a State, a political subdivision of a State, or a tribal organization relating to the inspection, repair, and maintenance of intermodal equipment is preempted if such law, regulation, order, or other requirement exceeds or is inconsistent with a requirement imposed by the Federal Motor Carrier Safety Regulations.

(b) *Pre-existing State requirements*—(1) *In general*. Pursuant to 49 U.S.C. 31151(e)(1), unless otherwise provided in paragraph (b)(2) of this section, a State requirement for the periodic inspection of intermodal chassis by intermodal equipment providers that was in effect on January 1, 2005, shall remain in effect only until June 17, 2009.

(2) *Nonpreemption determinations*—(i) *In general*. Pursuant to 49 U.S.C. 31151(e)(2), and notwithstanding paragraph (a) of this section, a State requirement described in paragraph (b)(1) of this section is not preempted if the Administrator determines that the State requirement is as effective as the FMCSA final rule and does not unduly burden interstate commerce.

(ii) *Application required*. Paragraph (b)(2)(i) of this section applies to a State requirement only if the State applies to the Administrator for a determination with respect to the requirement before the effective date of the final rule (June 17, 2009). The Administrator will make a determination with respect to any such application within 6 months after the date on which the Administrator receives the application.

(iii) *Amended State requirements*. If a State amends a regulation for which it previously received a nonpreemption determination from the Administrator

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under paragraph (b)(2)(i) of this section, it must apply for a determination of nonpreemption for the amended regulation. Any amendment to a State requirement not preempted under this subsection because of a determination by the Administrator may not take effect unless it is submitted to the Agency before the effective date of the amendment, and the Administrator determines that the amendment would not cause the State requirement to be less effective than the FMCSA final rule on “Requirements for Intermodal Equipment Providers and Motor Carriers and Drivers Operating Intermodal Equipment” and would not unduly burden interstate commerce.

Subpart D—National Registry of Certified Medical Examiners

SOURCE: 77 FR 24127, Apr. 20, 2012, unless otherwise noted.

§ 390.101 Scope.

The rules in this subpart establish the minimum qualifications for FMCSA certification of a medical examiner and for listing the examiner on FMCSA’s National Registry of Certified Medical Examiners. The National Registry of Certified Medical Examiners Program is designed to improve highway safety and operator health by requiring that medical examiners be trained and certified to determine effectively whether an operator meets FMCSA physical qualification standards under part 391 of this chapter. One component of the National Registry Program is the registry itself, which is a national database of names and contact information for medical examiners who are certified by FMCSA to perform medical examinations of operators.

§ 390.103 Eligibility requirements for medical examiner certification.

(a) To receive medical examiner certification from FMCSA a person must:

(1) Be licensed, certified, or registered in accordance with applicable State laws and regulations to perform physical examinations. The applicant must be an advanced practice nurse, doctor of chiropractic, doctor of medicine, doctor of osteopathy, physician assistant, or other medical professional

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authorized by applicable State laws and regulations to perform physical examinations.

(2) Complete a training program that meets the requirements of § 390.105.

(3) Pass the medical examiner certification test provided by FMCSA and administered by a testing organization that meets the requirements of § 390.107 and that has electronically forwarded to FMCSA the applicant’s completed test and application information no more than three years after completion of the training program required by paragraph (a)(2) of this section. An applicant must not take the test more than once every 30 days.

(b) If a person has medical examiner certification from FMCSA, then to renew such certification the medical examiner must remain qualified under paragraph (a)(1) of this section and complete additional testing and training as required by § 390.111(a)(5).

§ 390.105 Medical examiner training programs.

An applicant for medical examiner certification must complete a training program that:

(a) Is conducted by a training provider that:

(1) Is accredited by a nationally recognized medical profession accrediting organization to provide continuing education units; and

(2) Meets the following administrative requirements:

(i) Provides training participants with proof of participation.

(ii) Provides FMCSA point of contact information to training participants.

(b) Provides training to medical examiners on the following topics:

(1) Background, rationale, mission, and goals of the FMCSA medical examiner’s role in reducing crashes, injuries, and fatalities involving commercial motor vehicles.

(2) Familiarization with the responsibilities and work environment of commercial motor vehicle operation.

(3) Identification of the operator and obtaining, reviewing, and documenting operator medical history, including prescription and over-the-counter medications.